

# EXHIBIT V

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

BAY POINT CAPITAL PARTNERS )  
II, LP, )  
Plaintiff, ) CRIMINAL ACTION FILE  
v. ) NO. 1:21-CV-00375-MLB  
HOPLITE, INC. ET AL, )  
Defendants. )

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BEFORE THE HONORABLE MICHAEL L. BROWN  
TRANSCRIPT OF PROCEEDINGS  
MARCH 24, 2021  
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Proceedings recorded by mechanical stenography  
and computer-aided transcript produced by

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1 Other than those names I've mentioned, no.

2 That's not he has exclusive control and no one else  
3 has control. The board of directors took control.

4 MR. WINSBERG: Yeah, Your Honor.

5 MR. COHAN: And this is real, if you go to -- this is  
6 real, it's a functioning board, and there's no evidence to the  
7 contrary. And this is the plaintiff's burden. And they  
8 absolutely misrepresented to you what this testimony was.

9 MR. WINSBERG: Your Honor, if you go to the page  
10 before.

11 THE COURT: Pardon?

12 MR. WINSBERG: The page before in his transcript.  
13 Where talk about --

14 THE COURT: Where he talks about Pacciti?

15 MR. WINSBERG: He talks about the members of the  
16 Hoplite board have access to Hoplite's bank accounts. He talks  
17 about one with respect to an LDE contract, Mr. Senner, and do  
18 any other members of Hoplite's board have access to other  
19 Hoplite's accounts. Not that I'm aware of.

20 He's got control. He's not contesting -- is Mr.  
21 Cohan really saying that Mr. Smith doesn't have access to the  
22 Wells Fargo accounts at Hoplite?

23 THE COURT: I'm going to have Mr. Smith here.

24 MR. WINSBERG: Yeah.

25 THE COURT: I think we should do it Tuesday.

1 Is that right, Mr. Thurman?

2 COURTROOM DEPUTY: Let's see.

3 THE COURT: We could also do it Wednesday.

4 MR. WINSBERG: Your Honor, if we could, could we --  
5 could you order Hoplite and Hoplite Entertainment to update  
6 their bank statements between what they've produced on  
7 March 20th through --

8 THE COURT: I will.

9 MR. WINSBERG: -- Friday.

10 THE COURT: I will.

11 MR. WINSBERG: -- to refresh them up to date?

12 THE COURT: Yes.

13 COURTROOM DEPUTY: I would say Wednesday, March 31st,  
14 is "best, at 2:00.

15 THE COURT: Okay. Everybody got that?

16 MR. COHAN: So the Court is ordering Mr. Smith  
17 personally to --

18 THE COURT: Yes.

19 MR. COHAN: -- be here present in court?

20 THE COURT: Yes.

21 MR. COHAN: Or by video?

22 THE COURT: Present.

23 MR. COHAN: He's in California.

24 THE COURT: He's in California?

25 MR. COHAN: Yes.

1 THE COURT: I think he ought to be here in court.

2 MR. COHAN: And, Judge, I don't know what the travel  
3 reconviction are.

4 THE COURT: Yes; I know. You ought to see what the  
5 travel reconvictions are. I don't know what they are either.  
6 If he can't make it for travel reasons, then you-all ought to  
7 talk about that, but I --

8 MR. WINSBERG: He was here in Atlanta for his  
9 deposition.

10 MR. COHAN: He was here, but he didn't go straight to  
11 and from.

12 THE COURT: Okay. Well, let's see what he says. I  
13 thought he lived in Florida.

14 MR. COHAN: No, California.

15 THE COURT: Okay.

16 MR. COHAN: Everybody's in California. There is no  
17 personal jurisdiction here, either. All the loan documents  
18 were signed in California. Everybody lives in California. All  
19 the witnesses, all the documents and all the collateral are all  
20 in California.

21 THE COURT: Okay. Well, as I have said, it is  
22 presented in the way it is. I will look at your order, and if  
23 I think that it is so obvious that I can short-circuit this,  
24 I'll let you know, but otherwise, I think that it ought to be  
25 presented as any other order would be presented.

1 MR. COHAN: Would Your -- Honor.

2 THE COURT: I'm going to hear from him. And if you  
3 want to bring somebody else as well, that's fine as well. But  
4 I think it's pretty simple. If money is going out for things  
5 that violate the injunction, I think it's pretty simple that  
6 the injunction has failed.

7 And it may be that they should ask different  
8 questions and request other documents. Okay. I suppose that  
9 there is an iterative process to making sure that they have all  
10 of the stuff that they want, the documents and information.

11 But when somebody is spending the money, that's  
12 another issue, I think, unless somebody tells me that I didn't  
13 prevent that from happening.

14 But I find it hard to believe that his trip to  
15 Puerto Rico is in the ordinary course of business, especially  
16 because it's at a time that he apparently had resigned.

17 MR. COHAN: He's in the reality TV show business.

18 THE COURT: Right. But he has resigned from this  
19 company, right?

20 MR. COHAN: As management. He's still running the  
21 company. I mean, he's still making it happen. Nobody else  
22 knows the business but him.

23 THE COURT: Well, okay. He either is or is not, but  
24 I suppose that needs to be answered. Maybe it is. That's why  
25 I've posited the question of whether it was in the ordinary

1 course of business, but right now, what I have been told and  
2 what I see is that he resigned in early February and yet he's  
3 got a trip and there's some other payments being made that  
4 don't seem to be in the ordinary course of business, so we'll  
5 see. We'll see. But I'd like to hear from him and have those  
6 answers here so that we can address this issue.

7 Is there anything else that we want to talk about  
8 today?

9 MR. WINSBERG: No, Your Honor. Just Your Honor is  
10 going to order them to update the bank statement records?

11 THE COURT: I will. I've ordered that. I would say  
12 this, if you think -- I'd like y'all to look at his  
13 jurisdictional motion. I'm going to give you the amount of  
14 time to respond, but if there is something that you want to  
15 respond to shortly, you can do that as well. It's not going to  
16 be your response. He has asked me to short circuit this. And  
17 you ought to have at least a chance to weigh in on the short  
18 circuit.

19 I know that is not the way it ought to go. And I'm  
20 sure that most judges would not do it, but if you have you a  
21 two- or three-page response that you want to give me, I will  
22 look at it just to know whether I am in dangerous waters or  
23 not.

24 MR. WINSBERG: Your Honor, we're happy to do that.

25 THE COURT: All right. Anything else?